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EXAMINER

COBY, FRANTZ

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/856,276
Filing Date: October 02, 2001
Appellant(s): NONAKA ET AL.

Marina N. Saito
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 13, 2006 appealing from the Office action mailed September 23, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,495,533	LINEHAN ET AL.	02-1996
6,738,905	KRAVITZ ET AL.	05-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 71, 140, and 287-288 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Linehan et al. U.S. Patent no. 5,495,533.

As per claim 1, Linehan et al. disclose "a data providing system for distributing content data from a data providing apparatus to a data processing apparatus and managing data providing apparatus and said data processing apparatus by a management apparatus" by providing a computing system having an automated management system for managing keys to encrypt and decrypt stored data on the computing system (See Linehan et al. Abstract', Figure 1, Col. 2, lines 25-35). In particular, Linehan et al. disclose the claimed limitations of "said management apparatus prepares a key file storing encrypted content key data and encrypted usage control policy data indicating a content of rights such as usage permission conditions of

said content data" as a file header used with the Personal Key Archive (See Linehan et al. Figure 8) wherein the access control list in Figure 8 of Linehan et al. primarily indicates content of rights including usage permission conditions of content data. Also, Linehan et al. disclose the claimed feature of "said data providing apparatus provides said content data encrypted by using said content key data" (See Linehan et al. Col. 6, line 8-Col. 7, line 59). Last, Linehan et al. disclose the claimed features of "said data processing apparatus decrypts said content key data and said usage control policy data stored in said key file and determines the handling of said content data based on the related decrypted usage control policy data" (See Linehan et al. Col. 7, lines 60-64).

As per claim 2, most of the limitations of this claim have been noted in the rejection of claim 1 above. Claim 2 is at least rejected for its dependencies on the rejected claim 1 above. In addition Linehan et al. disclose the claimed feature of 'wherein said management apparatus adds signature data for verification to the key file' through an authentication server (See Linehan et al. Abstract', Figure 3, component 20*, Figure 4, component 34, Figure 5, component 34, Figure 6, component 66 and Figure 7 component 75*, Col. 3, lines 10-37).

As per claim 3, most of the limitations of this claim have been noted in the rejection of claim 1 above. Claim 3 is at least rejected for its dependencies on the rejected claim 1 above. In addition, Linehan et al. disclose the claimed feature of

"wherein said data proving apparatus prepares a content file storing the content data and provide the content file to the data processing apparatus" (See Linehan et al. Col. 4, line 60-Col. 5, line 38, Col. 6, line 8-Col. 7, line 5).

As per claim 4, most of the limitations of this claim have been noted in the rejection of claim 3 above. Claim 4 is at least rejected for its dependencies on the rejected claim 3 above. In addition Linehan et al. disclose the claimed feature of "wherein said management apparatus adds signature data for verification to the content file" through an authentication server (See Linehan et al. Abstract, Figure 3, component 20, Figure 4, component 34, Figure 5, component 34, Figure 6, component 66 and Figure 7 component 75; Col. 3, lines 10-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5 and 141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linehan et al. U.S. Patent no. 5,495,533 in view of Kravitz et al. U.S. Patent no. 6,738,905.

As per claims 5 and 141, most of the limitations of these claims have been noted in the rejection of claim 1 above.

It is noted, however, Linehan et al. did not specifically detail the aspects of "determines at least one of purchase and the usage form of the distributed content data" and "performs profit distribution processing for distributing the profit obtaining along with the purchase and usage of the content data" as recited in the instant claim 5. On the other hand, Kravitz et al. achieved the aforementioned claimed limitations by allowing a user to receive a package of content from a service provider as well as individual programs of content from the service provider, distributing encrypted content and decrypting the content, the encrypted content includes the fee the subscriber should 'be charged (See Kravitz Abstract', Col. 9, lines 27-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system for managing keys disclosed by Linehan et al. by incorporating the mechanism storing fees disclosed by Kravitz et al. The motivation

being, to allow a subscriber to obtain access to individual programs where the subscriber is only charged for the programs that have been accessed (See Kravitz et al. Col. 1, lines 11-15).

(10) Response to Argument

The Applicant argued that Linehan et al. neither discloses nor suggests the claimed limitations of "the management apparatus prepares a key file storing encrypted content key data and encrypted usage control policy data indicating a content of rights such as usage permission conditions of said content data" as amended in pending claims. The Examiner, on the other hand, disagrees with the preceding argument because it is clear that Linehan provides an automated management system for managing keys to encrypt and decrypt stored data on the computing system. In addition, Linehan provides a mechanism showing the organization of file headers used with key archives that primarily incorporates an access control list (See Linehan et al. Figure 8). The access control list primarily indicates content of rights including usage permission conditions of content data because the access control list includes list of users permitted to access the file (See Linehan et al. Col. 8, lines 57-65). Therefore, the claimed feature of usage control policy data indicating a content of rights is clearly taught by Linehan et al.

The Applicant argued that, "Linehan et al. neither discloses nor suggests that the management apparatus prepares a key file storing encrypted usage control policy data indicating a content of rights such as usage permission conditions of the content data, or that the data processing apparatus decrypts the usage control policy data stored in the key file and determines the handling of the content data based on the decrypted usage control policy data, as required by the claims". The Examiner respectfully disagrees with the preceding argument because Linehan et al. provides a file header including a file encryption key which, itself encrypted under a control key, a control key index number, a file owner's name, access control list and message authentication check (See Linehan et al. Figure 8). The aforementioned means are provided for allow and automated management system to manage keys as well as to encrypt and decrypt stored data on a computing system (See Linehan et al. Abstract). In the process, Linehan et al. allow a file header as part of preparing a key file including a file and store encryption key which, itself encrypted under a control key, a control key index number in the filed header in conjunction with the control list for the purpose of indicating a content of rights such as usage permission conditions of the content data.

Last, the Applicant argued that, "in Linehan et al., the Personal Key Server that generates the file encryption key and maintains the Personal Key Server Database does not store the encrypted file. Accordingly, Linehan et al. does not disclose or suggest a management apparatus that prepares a key file storing encrypted content key data and encrypted usage control policy data indicating a content of rights such as

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usage permission conditions of said content data". The Examiner on the other hand disagrees with the aforementioned statement because the file header as explained above is stored as part of the encrypted file in the file server. Therefore, storing of encrypted file is taught by Linehan et al.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Frantz Coby



Primary Examiner

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